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## **Minutes BOARD OF ADJUSTMENT OCTOBER 26, 2011**

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The study session of the Board of Adjustment began at 5:30 p.m., in the Council Chambers, 31 East Fifth Street, Tempe, Arizona.

**Present:**

Joe Arredondo  
Chris Dodd, Vice Chair  
Christopher Diba  
Dave Maza, Chair  
Dr. Wallis Stemm  
John Puzauskas  
Jan Sell

Steve Abrahamson, Planning & Zoning Coordinator  
Sherri Lesser, Senior Planner

**Absent:**

Jonathan Gillan

There were 17 citizen(s) at the study session.

The Study Session adjourned at 5:50 p.m.

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**Present:**

Joe Arredondo  
Chris Dodd, Vice Chair  
Christopher Diba  
Dave Maza, Chair  
Dr. Wallis Stemm  
John Puzauskas  
Jan Sell

Steve Abrahamson, Planning & Zoning Coordinator  
Sherri Lesser, Senior Planner

**Absent:**

Jonathan Gillan

Minutes of the regular hearing of the Board of Adjustment, of the City of Tempe, which was held at the Council Chambers, 31 East Fifth Street, Tempe, Arizona.

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**Number of Interested Citizen(s) Present: 17**

**Hearing convened at 6:00 p.m. and was called to order by Chairman Maza.**

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On a motion by Jan Sell, seconded by Joe Arredondo, the Board by a vote of 6-0 approved the Board of Adjustment Minutes for August 24, 2011.

(Christopher Diba abstained from this vote as he was not in attendance at the August 24, 2011 Board of Adjustment hearing.)

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**THE BOARD DISCUSSED THE FOLLOWING CASE(S):**

- Appeal of the September 6, 2011 Hearing Officer's decision to approve the request by the City of Tempe – Code Compliance Section to abate public nuisance items in violation of the Tempe City Code for the **SIMPSON PROPERTY (PL110295 /ABT11034 /CE111879/ABA11003)** (Shawn Daffara, Inspector; Delores Simpson, property owner; David Whisler, tenant) located at 1714 South Parkside Drive in the R1-6, Single Family Residential District.

Mr. David Whisler was present to represent this case.

Sherri Lesser, staff planner, gave an overview of this case and noted that the Hearing Officer had approved an open abatement for a period of 180 days due to repeated property neglect which presently includes deteriorated landscape, dead trees, trash, litter and inoperable vehicle(s). The current projected costs for abatement of these issue(s) is \$1943.00.

Mr. Whisler spoke, stating that this abatement request was a surprise to him and that although he had missed attending the September 6 hearing, he thought the issue(s) had been remedied.

Mr. Maza asked Mr. Whisler if he understood the process. Mr. Whisler responded that he believed he did.

Shawn Daffara, Code Inspector, explained that a complaint had been received on this property in May 27, 2011. Investigation showed junk/debris, litter, trash in the front carport, side yard, and some miscellaneous junk and debris in the back yard. There were three (3) inoperable vehicles in the driveway and carport (a jeep and 2 motorcycles); all had flat tires. One (1) inoperable vehicle in the back yard is not screened. Mr. Whisler has indicated that he has resided at this property for the past 12 years, and has not spoken with the property owner, Delores Simpson for several years. No progress has been made in bringing the property into compliance in spite of numerous notices.

Mr. Daffara stated that as of today, the current status of the property is that both the front yard and the carport area has been cleaned up. The back yard is still unchanged. Part of the problem, Mr. Daffara explained, is that the inoperable cream jeep with expired tags had been moved from the front yard to the back yard which is a problem due to the chain link which allows a line of sight.

In response to a question from Joe Arredondo, Mr. Daffara confirmed that he had hand delivered a copy of the notice(s) to Mr. Whisler on July 8, 2011 and explained the issue(s) involved. The last inspection of the property had been done this morning, Mr. Daffara explained, at about 9 AM. The front yard meets the minimal standards.

In response to a question from John Puzauskas, Mr. Daffara explained how a bid for the abatement is compiled and that once the work is complete the bid amount is adjusted accordingly. The owner is given the opportunity to pay the bill for services rendered. If they decline, the process for a property lien is instigated.

Mr. Jeff Tamulevich, Code Compliance, was questioned by Mr. Dave Maza as to the proceeds of the abatement cost(s). Mr. Tamulevich confirmed that it is not done as a profit to the City but rather as an outside vendor who completes the work necessary to bring the property into compliance for a set fee based on the work involved.

Mr. Maza asked when the actual work would be done if the Board decides to uphold the Hearing Officer's decision tonight. Mr. Tamulevich noted that it would be a thirty (30) day period before the abatement work would be done so that the applicant/property owner would have that period to appeal the Board's decision and to bring the property into compliance.

Mr. Steve Abrahamson, Planning & Zoning Coordinator, noted that there was an appeal period of 30 days from the date of the Board's decision for the property owner to appeal that decision to Superior Court.

Mr. Whisler was asked by the Board if the property owner, Delores Simpson, was aware of the abatement proceedings. Mr. Whisler stated that he did not believe so, as he has been the tenant of record for quite some time and notices to her attention had been sent to the address at which he resides. Mr. Whisler stated that he did not intend to leave the back yard violations unresolved, he just needed more time to remedy the situation. In response to a question from Mr. Puzauskas, he stated that he did not see any problem in bringing the remaining violations into compliance within the next 30 days.

The height of the chain link fence was addressed by Mr. Daffara who noted that the height of the fence was 4 ft. and even if slats were installed the vehicle(s) in the back yard would be visible and the problem would remain if the vehicle continued to be in that area.

**MOTION:** Jan Sell made a motion to uphold the Hearing Officer's decision of September 6, 2011 and deny the appeal; Dave Maza seconded the motion.

**VOTE:** Denied the appeal and upheld the September 6, 2011 Hearing Officer's decision.  
Vote 7 to 0

**DECISION:**

The Board denied the appeal and upheld the September 6, 2011 Hearing Officer's decision to approve the abatement request for PL110295 /ABT11034 /CE111879 for an open period of 180 days.

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The next Board of Adjustment hearing is scheduled for November 21, 2011.

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**There being no further business the hearing adjourned at 6:30 p.m.**

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Prepared by: Diane McGuire, Administrative Assistant II  
Reviewed by:



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Steve Abrahamson  
Planning & Zoning Coordinator

SA:dm